

ECF 11/19/07

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ARAZ ALALI,

Plaintiff,

-against-

07 Civ. 1296 (CLB)

ROBERT GAZZOLA, individually,
PATRICK J. CARROLL, individually,
and the CITY OF NEW ROCHELLE,
New York,

**AFFIRMATION IN OPPOSITION
TO MOTION FOR
SUMMARY JUDGMENT**

Defendants.
-----X

JONATHAN LOVETT, an attorney duly admitted to practice before this Court and the courts of the State of New York, hereby affirms under penalty of perjury that the following statement is true:

1. In connection with Defendants' motion for judgment they rely, by way of "evidence", upon the deposition of Plaintiff and two self-serving affidavits, one executed by Defendant Gazzola and the other by a police Lieutenant.
2. Any and all discovery sought by Plaintiff in order to oppose the motion has been stayed by order of the Court.
3. In short Plaintiff has been prevented from developing the evidence which in good faith he believes will demonstrate that the "factual" assertions made by Defendants in support of the application for summary judgment are false.
4. Under the circumstances we submit that the motion should be denied pursuant to FRCP 56(f) with leave to renew following the completion of discovery.

WHEREFORE an order is respectfully requested denying the instant motion with leave to renew at the conclusion of discovery.

Dated: White Plains, N.Y.
November 19, 2007



Jonathan Lovett (4854)